IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.111 OF 2006

IN

NOTICE OF MOTION NO.2159 OF 2005

IN

B.C.C.C. SHORT CAUSE SUIT NO.2328 OF 2005

ALONG WITH

CIVIL APPLICATION NO.127 OF 2006

Shri.Khemraj Agarwal ...Appellant

Versus

The Senior Manager (Aerodrome)

Airport Authority of India & Ors. ...Respondents

.....

Mr.Shoaib I.Memon for Appellant.

Ms.Rekha V.Tawade i/b M/s.M.V.Kini & Co.

for Respondents 1 and 2.

Mr.Ram U. Singh for Respondent No.3.

.....

CORAM: A.M.KHANWILKAR, J.

JULY 11, 2006.

P.C.

1. Heard Counsel for the parties.

2. I find no reason to depart from the conclusion reached by the Court below that the Civil Court had no jurisdiction, having regard to the arbitration clause in the License Agreement in particular Clause No.26 thereof. Once that finding is upheld, no fault can be found with the impugned order of the lower Court for rejecting the Notice of Motion for temporary injunction in such a suit. The argument of the Appellant is that till the arbitration proceedings are finally decided one way or the other, the possession of the Appellant ought not to be disturbed. It is not possible to accept this submission, as the Appellant will have to take recourse to appropriate remedy in terms of provisions of Arbitration Act, if so advised. Appellant intends to move appropriate proceedings within one week from today.

3. Parties agree to maintain status-quo as of today for a period of one week from today.

4. Appeal from Order and the cognate Civil Application disposed of on the above terms.

A.M.KHANWILKAR, J.